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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,093	09/09/2003	John G. Gilliland	0112300-1682	4315
29159	7590	01/16/2009	EXAMINER	
BELL, BOYD & LLOYD LLP			PANDYA, SUNIT	
P.O. Box 1135			ART UNIT	PAPER NUMBER
CHICAGO, IL 60690			3714	
			NOTIFICATION DATE	DELIVERY MODE
			01/16/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/659,093	GILLILAND ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SUNIT PANDYA	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12, 24 and 37-93 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12, 24, 37-93 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ .   | 6) <input type="checkbox"/> Other: ____ .                         |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/15/08 has been entered.

The examiner acknowledges that applicant has amended claims 1, 3, 24, 37, 37, 47-48, 50, 53, 55, 60, 62-64, 69, 71, 73, 78, 80, 82, 87-89 & 93. Claims 13-23 and 25-36 remain canceled. Consequently claims 1-12, 24, 37-93 are currently pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 3-6, 9-11, 37, 39-42, 45-48, 52-54, 58, 59, 61-63, 67, 68, 70-72, 76, 77, 79-81, 85, 86, 88 and 92 are rejected under 35 U.S.C. 103(a) as being**

**unpatentable over Dickinson et al. (US 6,287,197 B1) in view of Tiberio (US 5,123,649).**

Regarding claims 1, 37, 47, 48, 88 Dickinson discloses a gaming device comprising a display device, a primary game operable for one or more plays based upon one or more credits inserted by a player, a plurality of different game display interfaces, i.e. themes, available for a single one of the plays based upon a single one of the wagers in the primary game and operable to be displayed by the display device to represent said primary game to the player, wherein each interface includes a plurality of different symbols, wherein the symbols in each interface are associated with an identical winning condition in the primary game with respect to corresponding symbols in another one of the interfaces, and wherein a plurality of the corresponding symbols in the interfaces are visually different from one another. Additionally, the device disclosed by Dickinson includes at least one input device (Operator Interface element 22), at least one processor (controller element 12) and at least one memory device which stores a plurality of instructions, which when executed by the at least one processor, cause the at least one processor to operate with the display device and the at least one input device (Fig. 1; col. 2, lines 49-67).

Specifically, Dickinson discloses a video game wherein a player may select a theme (col. 6, lines 5-6), each theme having a plurality of symbols that are visually different (Fig. 4) but are associated with an identical winning condition in the game. That is, regardless of which theme is chosen the game is played in the same way (i.e.

the symbols of the selected theme are to be matched to one another, if they are matched then a winning condition is obtained regardless of the theme chosen).

*Dickinson does not specifically disclose the primary game operable for one or more plays based upon placement of a wager which corresponds to one of a first wager lever and a second wager level which is greater than the first wager level, nor does Dickinson specifically disclose the system receives an input associated with the placed wager, determines whether the placed wager corresponds to one of the first wager level and the second wager level, display the first game display interface if the placed wager corresponds to the first wager level, display the second display interface if the placed wager corresponds to the second wager level, operate the single play of the game, determine an outcome of the play, and indicate the determined outcome.* The primary embodiment of the invention disclosed by Dickinson is a video game wherein “the video game 10 may comprise virtually any type and/or size of video game including, for example, coin operated video games” (col. 2, lines 53-55) which may include slot machine-type casino games wherein a player places a wager in order to initiate said game. Additionally, while Dickinson does not specifically disclose the interface is chosen based upon a wager amount, Dickinson does disclose that the interface, i.e. theme, used in a play of the game may be chosen by multiple methods including randomly chosen by the game controller, based upon the level of the game, or by player selection (col. 6, lines 1-6).

In an analogous gaming device, Tiberio discloses a slot machine which includes a plurality of reels, wherein a player places a wager corresponding to a first wager level

or a second wager level and an aspect of the primary game, namely the pay table used in the game, is adjusted based upon said wager level (col. 2, lines 12-21). Additionally, Tiberio discloses the operating steps of a typical slot machine game including operating a play of the game based on the game machine operation, determining an outcome and indicating the determined outcome based on the wager (col. 1, lines 16-30). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of determining an aspect of game play based upon the wager level input by a player, as taught by Tiberio, with the teaching of providing a plurality of different display interfaces having visually different symbols that are associated with an identical winning condition in a game, as taught by Dickinson, as Dickinson discloses that the video game may be used in a coin-operated gaming machine and further because the interface, i.e. theme, may be chosen by a plurality of different methods. Thus, while not specifically disclosing that an interface, i.e. theme, is chosen by wager level, Dickinson provides a motivation for allowing for various methods of choosing a theme as well as motivation for providing the video game in a coin-operated slot machine device. Further, video games are often incorporated into slot machine wagering type gaming devices, and Dickinson discloses the invention “may be implemented in virtually any video game which is to display multiple images” (col. 5, lines 39-42).

Regarding claims 3, 39, 50 Tiberio discloses the primary game is a slot game including a plurality of the reels (Fig. 1).

Regarding claims 4, 40, 51 Dickinson discloses the gaming device comprising at least two of the interfaces include at least one visually identical symbol in Fig. 4, wherein the gaming device features multiple “Popcorn” themes.

Regarding claims 5, 6, 41, 42 Dickinson discloses each symbol is one of the interface has a corresponding symbol in another one of the interfaces, if the term “corresponding” is interpreted to mean “To be similar or equivalent in character, quantity, origin, structure, or function” (as defined by the American Heritage Dictionary, [www.Dictionary.reference.com](http://www.Dictionary.reference.com)). That is, Dickinson discloses interfaces the quantity of symbols in the “Blocks” theme corresponds to the quantity of symbols in the “Hands and Feet” theme (Fig. 4). In these two themes, the corresponding symbols are provided in a same frequency.

Regarding claims 9, 45 Dickinson discloses a plurality of symbols of one of the interfaces correspond to symbols in another one of the interfaces, and wherein the corresponding symbols have different but related indicia (Fig. 4, “Fast Food” and “Fruit” themes contain a plurality of symbols that are related as pertaining to edible objects).

Regarding claim 10, 46 Dickinson discloses a plurality of symbols of one of the interfaces correspond to symbols in another one of the interfaces, and wherein the corresponding symbols have different and unrelated indicia (Fig. 4, “Frogs” and “Mouths” themes contain a plurality of symbols that have different and unrelated indicia).

Regarding claim 11, each of the interfaces disclosed by Dickinson includes indicia consistent with a different game theme (Fig. 4).

Regarding claim 52-54, 61-63, 70-72, 79-81 Tiberio discloses a gaming device wherein the winning condition requires that a plurality of the symbols are displayed according to a designated spatial arrangement (i.e. on a win line 26 on slot machine reels 12,14 and 16; col. 3, lines 9-12). The spatial arrangement specifies a symbol combination which is satisfied by a plurality of symbols of a game display interface.

Regarding claim 58, 67, 76, 85 Dickinson discloses the first display interface includes a first set of the symbols (Fig. 4, "Fish" theme contains 3 images) and the second game display interface includes a second set of the symbols, the second set of symbols including at least one symbol visually different from at least one symbol of the first set (e.g. the "Robots" theme would contain symbols that are visually different from the "Fish" theme).

Regarding claim 59, 68, 77, 86, 92 Dickinson discloses the first game display interface is displayed for a first play of the game and the second game display interface is displayed for a second play of the game in that Dickinson teaches the display interface being changeable according to the level (col. 6, lines 4-5) such that a play at level 1 would utilize a interface different from that utilized during the next play at level 2.

**Claims 2, 12, 24, 38, 49, 55-57, 64-66, 73-75, 82-84, 89-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickinson (US 6,287,197 B1), Tiberio (US 5,123,649) and further in view of Roffman et al. (US 6,375,568 B1).**

Regarding claims 2, 24, 38, 49, 55, 64, 73, 82, 89 *combination of Dickinson and Tiberio fail to specifically disclose the first game display interface being associated with*

*a first payable and the second game display interface being associated with a second payable which is different from the first payable, nor that at least two of the interfaces are characterized by having payouts with different volatilities, payouts yielded different expected values, payouts with different eligibility requirements, and payouts with different triggering mechanism.* However, Roffman discloses that each game theme, or interface, has a different pay table (col. 8, lines 60-61; Table IB and Table IIB), and further that the paytables have payouts yielding different expected values (as shown in Tables IB and IIB).

*Regarding claims 12, 56, 57, 65, 66, 74, 75, 83, 84, 90, 91 combination of Dickinson and Tiberio does not specifically disclose each of the interfaces includes indicia consistent with a different game theme wherein each theme is selected from the group consisting of: a movie theme, a television show theme, a music theme, a famous person/group theme, a sports theme, a famous historical event theme, and any combination thereof.* However, Roffman discloses an analogous gaming device wherein a player may choose the theme of a slot machine game (col. 7, lines 1-18; col. 8, lines 10-18) from a general sports theme. That is, the interfaces a player may choose from include baseball, football, soccer, hockey, etc., which are of a sports theme (col. 7, lines 65-67).

**Claims 7, 8, 43, 44 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickinson (US 6,287,197 B1), Tiberio (US 5,123,649) and further in view of Nakagawa et al. (US 6,168,519 B1).**

Regarding claims 7, 8 and 43, *combination of Dickinson and Tiberio does not specifically disclose each symbol in one of the interfaces has a corresponding symbol in each of the other interfaces, wherein corresponding symbols are provided in a same frequency in each of the interfaces.* However, Nakagawa discloses a gaming device wherein a player may select an interface having a plurality of different symbols, each visually different but functionally identical, for use in a game. Specifically, a player may choose a team “interface” for use in a soccer game, wherein each team has a plurality of players, i.e. symbols, that are functionally identical, i.e. all capable of the same actions during game play, but visually different, i.e. having different and distinguishing uniforms, etc. Every team contains the same number of players for use at corresponding positions (e.g. both team Japan and team Argentina will have 11 players on the field, one player at each position of defender, midfielder, forward, etc.), as shown in Fig. 3.

Essentially, allowing a player to choose an “interface” is nothing more than allowing a player to set personal preferences for game play. In both inventions, a player is allowed to choose an interface containing symbols that appeal most to them, and therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Dickinson and Nakagawa in order to provide a player with a more personalized video gaming experience.

Regarding claim 44, Dickinson discloses each symbol is one of the interface has a corresponding symbol in another one of the interfaces, if the term “corresponding” is interpreted to mean “To be similar or equivalent in character, quantity, origin, structure,

or function" (as defined by the American Heritage Dictionary, [www.Dictionary.reference.com](http://www.Dictionary.reference.com)). That is, Dickinson discloses interfaces the quantity of symbols in the "Blocks" theme corresponds to the quantity of symbols in the "Hands and Feet" theme (Fig. 4). In these two themes, the corresponding symbols are provided in a same frequency.

**Claims 60, 69, 78, 87, 93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickinson (US 6,287,197 B1), Tiberio (US 5,123,649) and further in view of Jaffe (US 6,443,837).**

Regarding claims 60, 69, 78, 87 and 93, combination of Dickinson and Tiberio does not specifically disclose a gaming device including a trigger event associated with the game, a bonus game operable after the trigger even occurs, and atleast one processor operable to determine the trigger event, operate the bonus game and provide a bonus award as a result of a bonus award condition being satisfied. However Jaffe discloses a gaming device including a trigger event associated with the game, and a bonus game operation feature that is activated upon occurrence of the trigger event, and an award disbursement feature that provides a bonus award as a result of a bonus award condition being satisfied (col. 7, lines 33-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Dickinson and Tiberio with Jaffe, to provide players with a bonus or secondary game, thus offering players with a greater expectation of winning than the basic game, thus attracting players resulting in frequent play and hence increasing profitability.

### ***Response to Arguments***

Applicant's arguments filed 10/15/08 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, the rejection is formulated based on the combination of Dickinson and Tiberio, wherein the combination of the said references essentially disclose all of the limitations claimed in the independent claims (see updated rejection above for details rejection).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Dickinson discloses that the video game may be used in a coin-operated gaming machine and further because the interface, i.e. theme, may be chosen by a plurality of different methods. Thus, while not specifically disclosing that an interface, i.e. theme, is chosen

by wager level, Dickinson provides a motivation for allowing for various methods of choosing a theme as well as motivation for providing the video game in a coin-operated slot machine device. Further, video games are often incorporated into slot machine wagering type gaming devices, and Dickinson discloses the invention “may be implemented in virtually any video game which is to display multiple images” (col. 5, lines 39-42).

Regarding the applicant’s arguments related to the newly amended features in the claims. The examine would like to respectfully direct the applicant’s attention to the rejection above, wherein the rejection has been updated to reflect the amendments made to the claims.

Consequently, for the reasons provided above, the rejection is maintained.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIT PANDYA whose telephone number is (571)272-2823. The examiner can normally be reached on M-F 8 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SP

/Scott E. Jones/  
Primary Examiner, Art Unit 3714